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C O N F I D E N T I A L SECTION 01 OF 02 KIRKUK 000039

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BAGHDAD FOR POL, ROL COORDINATOR, USAID, PAO, NCT, IRMO

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TAGS: PGOV PHUM KDEM KISL PINR KWMN I2
SUBJECT: KRG-E JUSTICE MINISTRY FACES POLITICAL PRESSURE AND LEGAL

REFORM

REF: (A) KIRKUK 22 AND PREVIOUS, (B) KIRKUK 36

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CLASSIFIED BY: Scott Dean, Regional Coordinator (Acting), Reo Kirkuk, Department of State .

REASON: 1.4 (b), (d)

¶1. (C) INTRODUCTION AND SUMMARY. The RC(A) met February 16 with Hadi Ali, the Justice Minister in the Erbil Kurdistan Regional Government, and the ministry's Director General, Judge 'Abdulbassit 'Abdullah Farhad. Ali is from the Kurdistan Islamic Union and has been the KRG-E Justice Minister for 5-6 years. Ali said the KDP and PUK had delayed merger of the KRG-E and KRG-S justice ministries for a year because they didn't know what to do with the ministries' political appointees, not for any substantive reason. The KDP and PUK had put more political pressure on the ministry over the last year (the PUK will name the minister for the unified KRG). The "terrorism excuse" had weakened the Ministry of Justice in relation to the Ministry of Interior. The KIU aimed to respect Islam while deciding secular questions according to democratic procedures. Asayish were handling the investigation and detention of Kamal Qadir Karim for criminal defamation of the KRG. Annually, the KRG files about 10-15 criminal defamation cases per year against newspapers. END INTRODUCTION AND SUMMARY.

¶2. (C) On KRG unification, Ali made the following points.

-- It was unnecessary for the Kurdistan Democratic Party and the Patriotic Union of Kurdistan to say that it would take a year to merge the KRG ministries of justice in Erbil and Sulaymaniyah. The Kurdistan National Assembly's Legal Committee could unify the different regulations of the two ministries "in one week." I sent KRG President Barzani a report on this in October.

-- One minor difference is that, before the creation of the KNA, the Sulaymaniyah ministry gave itself some powers and issued some regulations the Erbil ministry never had. Since the KNA was established, though, both ministries have operated from KNA law. Other differences are requirements for appointment, e.g., Erbil requires 10 years' legal experience for appointment as a judge or deputy prosecutor. Sulaymaniyah may require 8-9 years, and those with less than 10 years' experience worry about their jobs.

-- The real reason for the two parties' delay is they don't know where to put some of their political appointees from the ministries.

¶3. (C) On interparty relations, Ali made the following points.

-- Since I as minister am from the KIU, rather than either of the two dominant parties, the ministry has been able to be more independent.

-- KRG PM Barzani has been supportive, but KDP and PUK have put more political pressure on the ministry over the last year.

-- The "terrorism excuse" has weakened the Ministry of Justice in relation to the Ministry of Interior.

(NOTE: The PUK will name the Justice Minister for the unified KRG. END NOTE.)

¶4. (SBU) On the KIU, Ali said the following.

-- Islam is the source of culture and the law must respect religious beliefs.

-- The KIU works with organizations besides religious ones. Islam says the government should be civil rather than religious. Islam confines itself to religious matters; it is not like medieval Christianity, trying to dominate all spheres of life.

-- When people in democratic countries insult Islam, it makes Muslims suspect democracy. Islamic governments are all dictatorships and cannot provide their people basic services. The KIU has a moderate Islamic vision, but we want to decide secular questions according to democratic procedures. We try to convince our people not to be suspicious of democracy. We try to stay away from violence. (NOTE: The KIU says it does not have a militia, unlike most major Iraqi parties. END NOTE.)

-- We would not try to suppress Christians. When asked whether the KNA should ban the sale of alcohol, Ali said that should be decided by democratic procedures. If there were a general law banning it, there might be exceptions for Christians and Jews. The KIU has a stronger link to Christian parties than it does to

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secular Islamic ones.

¶5. (C) On the Kamal Qadir Karim criminal defamation case (ref A), Ali said the following.

-- Much political pressure had been put on the judges.

-- Qadir sent Ali and others an 11-page memo appealing his conviction.

-- The investigation of Qadir under Article 434 could take six months or more.

-- The Asayish (Kurdish intelligence) had taken control of the investigation, rather than the court of investigation, even though it was not a security-related case. Qadir was in Asayish rather than police custody.

(COMMENT: REO will follow up with the KRG-E Interior Ministry. END COMMENT.)

¶6. (C) On legal reform and Article 434 (criminal defamation), DG Farhad said the following.

-- Annually, about 10-15 cases per year are filed against newspapers. (NOTE: Farhad was probably talking about governmental suits; private citizens file "hundreds" of criminal defamation suits against each other and against the media. In ref B, a newspaper editor complained about a large number of "private" lawsuits by officials. END NOTE.)

-- While new laws have been issued in Baghdad, the KRG is still operating on the Saddam-era laws it reauthorized for the KRG (in the early 1990's). These Saddam-era laws allow for more

intervention by political figures, though not in the judge's decision itself.

-- The KNA did reform some aspects of old laws, as on the status of women. A project is underway to review all such laws, involving an expert from Quebec.

-- KRG judges had submitted a reform bill to the KNA last July, but because it was not from any of the main parties, it has not been acted on. KRG-E PM Barzani says he supports reform, but the Ministry of Finance has not funded it.

-- The criminal defamation article 433 and 434 of the criminal code are not well formulated; they should be reformed as part of an overall reform of the entire criminal code after promulgation of a new KRG Constitution. Because there are so few cases, the legal committee reviewing the criminal code has not received any public comment on Articles 433 and 434.

DEAN